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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,667	12/20/2005	Toni Jane Cherrett	920670-100964	7853
23644 7590 03/09/2009 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786				
EXAMINER ABBOTT, YVONNE REINIE				
ART UNIT 3644		PAPER NUMBER		
NOTIFICATION DATE 03/09/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

Office Action Summary

Application No.

10/561,667

Applicant(s)

CHERRETT, TONI JANE

Examiner

Yvonne R. Abbott

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 16 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 16 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The abstract of the disclosure filed 11/26/08 is objected to because it is not labeled as "Substitute", nor is it marked up (underlining new material, strike-through deletions). Correction is required. See MPEP § 608.01(b).

Response to Arguments

2. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,2,3, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Wacker (Des. 265516). Wacker shows an animal coat comprising: two side portions arranged to hang down from the animal's back alongside respective sides of the animal's body; a neck opening defined by said side portions, and arranged to engage around the animal's neck; and two continuous leg holders, each secured to an inner face of the coat at the rear part of a respective one of the side portions, and arranged to receive a respective hind leg of the animal, such that the coat is secured in place by the neck opening engaging around the animal's neck and the two leg holders receiving

the hind legs of the animal, leaving the coat unsecured to the front legs of the animal; wherein the leg holders are above the lower level of the side portions; and further comprising closure means for joining the two side portions.

5. Claims 1,2,3, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Mishler (512385). Mishler shows an animal coat comprising: two side portions arranged to hang down from the animal's back alongside respective sides of the animal's body; a neck opening defined by said side portions, and arranged to engage around the animal's neck; and two continuous leg holders (a), each secured to an inner face of the coat at the rear part of a respective one of the side portions, and arranged to receive a respective hind leg of the animal, such that the coat is secured in place by the neck opening engaging around the animal's neck and the two leg holders receiving the hind legs of the animal, leaving the coat unsecured to the front legs of the animal; wherein the leg holders are above the lower level of the side portions; and further comprising closure means for joining the two side portions.

6. Claims 1,2,3, 11, 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Borbridge (1196203). Borbridge shows an animal coat comprising: two side portions arranged to hang down from the animal's back alongside respective sides of the animal's body; a neck opening defined by said side portions, and arranged to engage around the animal's neck; and two continuous leg holders (13), each secured to an inner face of the coat at the rear part of a respective one of the side portions, and arranged to receive a respective hind leg of the animal, such that the coat is secured in

place by the neck opening engaging around the animal's neck and the two leg holders receiving the hind legs of the animal, leaving the coat unsecured to the front legs of the animal; wherein the leg holders are above the lower level of the side portions; further comprising closure means for joining the two side portions; and further comprising snap hook retaining means (17) for retaining the side portions in raised positions and to release the side portions to lowered positions as desired, wherein the snap hooks are considered equivalent to the tape and button (17,26) under 35 U.S.C. 112, sixth paragraph.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borbridge in view of Paul (5177940). Although Borbridge disclose that the retaining means for retaining the side portions in raised positions are snap hooks, such mechanisms are considered alternate equivalent means to the tape for conveniently and releasably retaining the coat in a raised position. Further Paul teaches that it would have been obvious to provide an animal coat having retaining means comprising tapes (13) and means for securing the tapes in a raised position (Fig. 4) according to the same rationale.

9. Claims 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wacker in view of McComb (5341765). Although Wacker shows leg holders, it does not show that they have a depth between 8-30% of the circumference of the leg holders. McComb teaches that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide leg holders with more depth in order to better protect the legs from injury, provide more warmth, or more cushioning and comfort to the animal as it lays down.

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wacker in view of Brezinski (6584939). Wacker shows the coat of claim 1. Brezinski teaches that it would have been obvious to make an animal coat using a method of measuring dimensions of an animal, transferring those dimensions to a pattern, making an animal coat from that pattern, and fitting the coat to an animal (col. 6, lines 39-67) in order to ensure that the coat fits comfortably on the animal.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wacker in view of Sayles (1218004). Wacker shows the coat of claim 1. Sayles teaches that it would have been obvious to provide that the leg holders be made of stretch (elastic) material in order to accommodate animals of varying sizes.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (571) 272-6896. The examiner can normally be reached on Monday-Thursday 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on (571) 272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yvonne R. Abbott/
Primary Examiner, Art Unit 3644